

# EXHIBIT B

 COPY

ALIAS  
SUMMONS

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

WILLIAM R. DAVIS, as executor of the estate of  
James W. Davis, Sr., deceased,  
Plaintiff, Counterclaim-Def.

VS.  
RAYMOND JAMES & ASSOCIATES, INC.,  
Defendant, Crossclaim-Def.

and

CHRISTINE M. POFFENBARGER,  
Defendant, Counterclaim-Pltf.,  
Crossclaim-Pltf. and Third-  
Party Pltf.

CIVIL ACTION NO. 873-N

ALIAS  
SUMMONS

VS.  
WILLIAM R. DAVIS, JAMES W. DAVIS, JR., LINDA M. TROUTT, and  
STAR ENTERPRISE, INC., Third-Party Defs.

TO THE  
SPECIAL PROCESS SERVER

**YOU ARE COMMANDED:**

To Summon the above named defendants so that, within 20 days after service hereof upon defendants, exclusive of the day of service, defendants shall serve upon

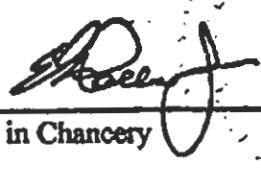
Peter M. Sweeney, Esq., plaintiff's attorney whose address is  
1925 Lovering Avenue Wilmington, DE 19806 an answer to the complaint. (third-party)

To serve upon defendants a copy hereof and of the complaint. (third-party)

**TO THE ABOVE NAMED DEFENDANTS:**

In case of your failure, within 20 days after service hereof upon you, exclusive of the day of service, to serve on plaintiff's attorney named above an answer to the complaint, judgment by default will be rendered against you for the relief demanded in the complaint. (third-party)

Dated April 15, 2005

  
Register in Chancery

CIVIL ACTION NO. 873-N

WILLIAM R. DAVIS

Plaintiff

VS.

RAYMOND JAMES & ASSOCIATES, INC., ET AL.

Defendant

ALIAS  
SUMMONS

Please effectuate service upon:

1. Star Enterprise, Inc.  
by serving the new registered agent:  
c/o ChevronTexaco Corporation  
The Prentice-Hall Corporation System, Inc.  
2711 Centerville Road, Suite 400  
Wilmington, DE 19808

SERVICE TO BE COMPLETED BY  
SPECIAL PROCESS SERVER

Peter M. Sweeney, Esq.

Attorney for Plaintiff

~~copy~~

## IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

## IN AND FOR NEW CASTLE COUNTY

WILLIAM R. DAVIS, as executor of the estate of James W. Davis, Sr., deceased,	:	
Plaintiff,	:	C.A. No.: 873-N
v.	:	
RAYMOND JAMES & ASSOCIATES, INC., a Florida corporation,	:	
Defendant, Crossclaim- Defendant,	:	
and	:	
CHRISTINE M. POFFENBARGER,	:	
Defendant, Counterclaim- Plaintiff, Crossclaim- Plaintiff and Third-Party Plaintiff,	:	
v.	:	
WILLIAM R. DAVIS, JAMES W. DAVIS, JR., and LINDA M. TROUTT, and STAR ENTERPRISE, INC. a Delaware corporation,	:	
✓ JWB Third-Party Defendants.	:	
	<u>ANSWER</u>	
1. Admitted.		
2. Admitted.		

Star Enterprise, Inc.  
C/o Chevron Texaco  
(this company has  
merged w/Chevron  
Texaco)

Chevron Texaco's  
Registered Agent is  
Prentice Hall Corporation  
System  
See tabbed pg. attached.

3. Defendant Christine M. Poffenbarger ("Poffenbarger") is without knowledge or information sufficient to form a belief as to the truth of this averment.

4. Admitted, upon information and belief.

5. Admitted.

6. Admitted.

7. Admitted, upon information and belief.

8. Admitted Plaintiff faxed instructions, but denied these instructions were what the Decedent intended. Denied that Decedent directed the sale and withdrawal of all funds from the IRA.

9. Defendant Poffenbarger is without knowledge or information sufficient to form a belief as to the truth of this averment.

10. Admitted.

11. Defendant Poffenbarger is without knowledge or information sufficient to form a belief as to the truth of this averment.

12. Admitted, upon information and belief.

13. Denied.

14. Admitted.

15. Denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff cannot maintain a claim due to his unclean hands in abusing his power-of-attorney in an attempt to close his father's IRA at the expense of Defendant Poffenbarger.

THIRD AFFIRMATIVE DEFENSE

Plaintiff cannot maintain his cause of action due to his breach of fiduciary duties to the Decedent in abusing the power-of-attorney.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff cannot maintain his claim due to insufficiency of process, Court of Chancery Rule 12(b)(4).

FIFTH AFFIRMATIVE DEFENSE

Plaintiff cannot maintain his claim due to insufficiency of service of process, Court of Chancery Rule 12(b)(5).

WHEREFORE, Defendant Christine M. Poffenbarger respectfully requests that the Court enter an Order:

- a) denying the Plaintiff's Complaint in its entirety;
- b) granting such other and further relief as the Court deems just and equitable.

COUNTERCLAIM AND CROSSCLAIM

16. Counterclaim and Crossclaim-Plaintiff, Christine M. Poffenbarger ("Poffenbarger"), is an adult individual residing in the State of Maryland.

17. Counterclaim-Defendant William R. Davis, individually and as executor of the Estate of James W. Davis, Sr., is an adult individual residing in the Commonwealth of Pennsylvania, upon information and belief, at 58 Rabbit Run Road, Oxford, Pennsylvania 19363.

18. Crossclaim-Defendant Raymond James & Associates, Inc. is a Florida corporation licensed to do business in the State of Delaware whose registered agent for service of process is The Corporation Trust Company located at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

19. James W. Davis, Sr. (the "Decedent") died on June 12, 2004.

20. Prior to Decedent's death, he owned an individual retirement account, account number 4380 (the "IRA"). The Custodian of the account was Crossclaim-Defendant Raymond James.

21. Poffenbarger was the named beneficiary on the IRA at the time of Decedent's death and thus, entitled to receive the proceeds of the IRA.

22. Upon information and belief, Counterclaim and Third-Party Defendant William R. Davis was the Decedent's Attorney-in-fact pursuant to a Durable Power of Attorney dated November 14, 1996.

23. As the Decedent's Attorney-in-fact, Counterclaim and Third-Party Defendant William R. Davis owed a fiduciary duty to Decedent to fulfill the Decedent's wishes as to the IRA.

24. Since Poffenbarger is a third-party beneficiary of the IRA, Counterclaim and Third-Party Defendant William R. Davis owed a fiduciary duty to Poffenbarger.

25. Counterclaim and Third-Party Defendant William R. Davis breached his fiduciary duties by attempting to close the IRA and withdraw the monies for his own benefit and the benefit of his siblings, contrary to Decedent's intention that the monies in the IRA pass to Poffenbarger.

26. Poffenbarger is the named beneficiary of the IRA and Crossclaim-Defendant Raymond James is in breach of its duties to Poffenbarger as the beneficiary of the IRA by not turning over the funds to her control.

WHEREFORE, the Crossclaim and Counterclaim-Plaintiff, Christine M. Poffenbarger respectfully requests that the Court enter an Order:

- a) declaring that the proceeds of the IRA are her property and not the property of the Estate of James W. Davis, Sr.;
- b) ordering Crossclaim-Defendant to deliver the proceeds of the IRA to Poffenbarger, plus interest;
- c) awarding Poffenbarger her attorneys' fees and court costs; and
- d) entering such other and further relief this Court deems just and equitable.

THIRD-PARTY COMPLAINT

27. Third-Party Plaintiff Christine M. Poffenbarger ("Poffenbarger"), is an adult individual residing in the State of Maryland.

28. Counterclaim and Third-Party Defendant William R. Davis, individually and as executor of the Estate of James W. Davis, Sr., is an adult individual residing in the Commonwealth of Pennsylvania, upon information and belief, at 58 Rabbit Run Road, Oxford, Pennsylvania 19363.

29. Third-Party Defendant James W. Davis, Jr. is an adult individual residing in the State of Delaware, upon information and belief, at 24 Carole Road, Newark, Delaware 19713.

30. Third-Party Defendant Linda M. Troutt is an individual residing in the State of Delaware, upon information and belief, at 266 Locust Avenue, Wilmington, Delaware 19805.

31. Third-Party Defendant Star Enterprise is a Delaware corporation whose registered agent for service of process is The Company Corporation located at 2711 Centerville Road, Wilmington, Delaware 19808.

32. Prior to Decedent's death, he and Poffenbarger were engaged to be married.

33. Decedent had a pension with Star Enterprise.

34. During their engagement, Decedent changed the amount of the pension payment.

35. Upon information and belief, Decedent executed a new beneficiary designation form naming Poffenbarger as the beneficiary at the same time he changed the amount of the pension distributions.

36. Upon information and belief, Star Enterprise has begun making the payments to the three (3) Counterclaim-Defendants pursuant to a beneficiary designation form that was superseded by Decedent filing a new form.

37. The pension payments are rightfully the property of Third-Party Plaintiff Poffenbarger.

WHEREFORE Counterclaim-Plaintiff Christine M. Poffenbarger requests that the Court enter an Order:

- a) imposing a constructive trust over the pension proceeds that have been paid to the Counterclaim-Defendants;
- b) direct that the monies held in the constructive trust by the Plaintiff, plus any accrued interest and all future pension payments due from Star Enterprise, be made to Counterclaim-Plaintiff Poffenbarger;
- c) award Poffenbarger her costs and attorneys' fees;
- d) granting such other and further relief as this Court deems just and equitable.

GORDON, FOURNARIS & MAMMARELLA, P.A.

Dated: March 18, 2005

/s/ Peter M. Sweeney

Robert A. Penza, Esquire (DSB #2769)  
Peter M. Sweeney, Esquire (DSB #3671)  
1925 Lovering Avenue  
Wilmington, DE 19806  
(302) 652-2900  
Attorneys for Defendant, Crossclaim-  
Plaintiff, Counterclaim-Plaintiff and  
Third-Party Plaintiff Christine M.  
Poffenbarger

EFiled: Apr 12 2005 12:55PM EDT  
Filing ID 5596628

## IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

## IN AND FOR NEW CASTLE COUNTY

 COPY

WILLIAM R. DAVIS, as executor	:	
of the estate of James W. Davis,	:	
Sr., deceased,	:	
Plaintiff, Counterclaim-	:	C.A. No.: 873-N
Defendant,	:	
v.	:	
RAYMOND JAMES & ASSOCIATES, INC.,	:	
a Florida corporation,	:	
Defendant, Crossclaim-	:	
Defendant,	:	
and	:	
CHRISTINE M. POFFENBARGER,	:	
Defendant, Counterclaim-	:	
Plaintiff, Crossclaim-	:	
Plaintiff and	:	
Third-Party Plaintiff,	:	
v.	:	
WILLIAM R. DAVIS, JAMES W. DAVIS,	:	
JR., and LINDA M. TROUTT, and	:	
STAR ENTERPRISE, INC. a	:	
Delaware corporation,	:	
Third-Party Defendants.	:	

THIRD-PARTY PLAINTIFF'S  
MOTION FOR APPOINTMENT OF SPECIAL PROCESS SERVER

1. Pursuant to Chancery Court Rule 4(c), Third-Party Plaintiff, Christine M. Poffenbarger ("Poffenbarger"), hereby moves this Court for an Order appointing Legal Beagles, Inc. as Special Process Server for the purpose of serving the Third-Party Complaint and related suit papers requiring service on the following Crossclaim-Defendant and Third-Party Defendant:

NOTE:

Amended to state

Chevron Texaco —  
for Star Enterprises —  
Registered Agent —

Prentice-Hall

- a) Star Enterprise, Inc.  
c/o ChevronTexaco Corporation  
By: Registered Agent,  
The Prentice-Hall Corporation System,  
2711 Centerville Road, Suite 400  
Wilmington, DE 19808
- b) Raymond James & Associates, Inc.  
c/o Registered Agent,  
The Corporation Trust Company  
1209 Orange Street  
Wilmington, DE 19801

2. Legal Beagles, Inc. is a well-known and reputable company which has been appointed by the various courts in Delaware to service papers in a variety of cases.

3. Poffenbarger desires to make service of process on Crossclaim-Defendant and Third-Party Defendant as inexpensively and expeditiously as possible. Prompt service is desired due to the desire to have this matter proceed in an expeditious manner.

4. Poffenbarger has not made any prior application for the relief herein requested as to Raymond James & Associates, Inc. This is the second request for Star Enterprise, Inc., since a new registered agent was located.

GORDON, FOURNARIS & MAMMARELLA, P.A.

/s/ Peter M. Sweeney

Date: April 12, 2005

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Robert A. Penza, Esq. (DSB #2769)  
Peter M. Sweeney, Esq. (DSB #3671)  
1925 Lovering Avenue  
Wilmington, DE 19806  
(302) 652-2900  
Attorneys for Defendant, Crossclaim-  
Plaintiff, Counterclaim-Plaintiff and Third-  
Party Plaintiff Christine M. Poffenbarger

EFiled: Apr 12 2005 12:55PM  
Filing ID 5596628

## IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

## IN AND FOR NEW CASTLE COUNTY

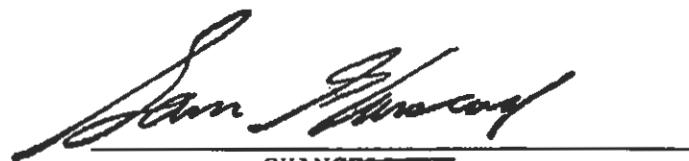
WILLIAM R. DAVIS, as executor	:	
of the estate of James W. Davis,	:	
Sr., deceased,	:	
Plaintiff, Counterclaim-	:	C.A. No.: 873-N
Defendant,	:	
v.	:	
RAYMOND JAMES & ASSOCIATES, INC.,	:	
a Florida corporation,	:	
Defendant, Crossclaim-	:	
Defendant,	:	
and	:	
CHRISTINE M. POFFENBARGER,	:	
Defendant, Counterclaim-	:	
Plaintiff, Crossclaim-	:	
Plaintiff and	:	
Third-Party Plaintiff,	:	
v.	:	
WILLIAM R. DAVIS, JAMES W. DAVIS,	:	
JR., and LINDA M. TROUTT, and	:	
STAR ENTERPRISE, INC. a	:	
Delaware corporation,	:	
Third-Party Defendants.	:	

ORDER

\_\_\_\_ This 13 day of April 2005, Third Party Plaintiff, Christine M. Poffenbarger, having presented to the Court her Motion for Appointment of a Special Process Server under Chancery Court Rule 4(c) requesting appointment of Legal Beagles, Inc. specially

to serve process, and it appearing that the circumstances warrant the granting of such application,

**IT IS HEREBY ORDERED** that Legal Beagles, Inc. is appointed specially to serve process upon Crossclaim-Defendant, Raymond James & Associates, Inc., c/o Registered Agent, The Corporation Trust Company and Third-Party Defendant, Star Enterprise, Inc., c/o ChevronTexaco Corporation, by its Registered Agent, The Prentice-Hall Corporation System, Inc.



John Harary  
CHANCELLOR  
Master

CERTIFICATE OF SERVICE

I, Peter M. Sweeney, hereby certify that on this 18<sup>th</sup> day of March, 2005, two true and correct copies of the attached Answer, Counterclaim, Crossclaim, Third-Party Complaint and Motion for Appointment of Special Process Server were delivered on the following individuals via electronic delivery (LexisNexis) and U.S. Mail as indicated:

VIA ELECTRONIC FILING

David J. Ferry, Jr., Esquire  
Ferry, Joseph & Pearce, P.A.  
824 N. Market Street, Suite 904  
P.O. Box 1351  
Wilmington, DE 19899

VIA U.S. MAIL

Raymond James & Associates, Inc.  
c/o The Corporation Trust Company  
1209 Orange Street  
Wilmington, DE 19801

GORDON, FOURNARIS & MAMMARELLA, P.A.

/s/ Peter M. Sweeney

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Robert A. Penza, Esq. (DSB #2769)  
Peter M. Sweeney, Esq. (DSB #3671)  
1925 Lovering Avenue  
Wilmington, DE 19806  
(302) 652-2900  
Attorneys for Defendant,  
Counterclaim Plaintiff, Crossclaim-  
Plaintiff and Third-Party Plaintiff  
Christine M. Poffenbarger